

# LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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**DATE:** NOVEMBER 8, 2004

**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer

**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT: Agenda Item #4:** LAFCO 2964 – Reorganization to include Annexations to City of Rancho Cucamonga and West Valley Mosquito and Vector Control District (Henderson Creek Properties – DRC 2003-00753)

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**INITIATED BY:**

Council Resolution, City of Rancho Cucamonga

**RECOMMENDATION:**

1. Take the following actions with respect to the environmental review for LAFCO 2964:
  - a. Certify that the Addendum to the Final Environmental Impact Report (EIR), the EIR, and other related documents prepared by the City of Rancho Cucamonga have been independently reviewed and considered by the Commission and its Environmental Consultant;
  - b. Determine that the Final EIR for the Henderson Creek Project prepared by the City is adequate for the Commission's use as a CEQA Responsible Agency for its determinations related to LAFCO 2964;
  - c. Adopt the Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's Environmental Consultant, as attached to the staff report (Attachment #5); and,

- d. Direct the Clerk of the Commission to file a Notice of Determination within five days.
2. Approve LAFCO 2964 – Reorganization to include Annexations to the City of Rancho Cucamonga and the West Valley Mosquito and Vector Control District with the standard terms and conditions that include the “hold harmless” clause for potential litigation costs.
3. Waive protest proceedings, as permitted by Government Code Section 56663(c), with 100% landowner support and concurrence from the City of Rancho Cucamonga and the West Valley Mosquito and Vector Control District; and,
4. Adopt LAFCO Resolution #2849 setting forth the Commission’s terms, conditions, findings, and determinations for approval as provided in Attachment #6.

#### **BACKGROUND INFORMATION:**

At the October hearing, the Commission continued consideration of LAFCO 2964 to the November hearing to allow for completion of negotiations and discussions between the City of Rancho Cucamonga and the developer of the project known as Henderson Creek. Maps of LAFCO 2964 are included as Attachment #1 to this report. These negotiations relate to compliance with the City’s conditions of approval for off-site mitigation lands, set at 58 acres, to be dedicated as a requirement of project approval.

As discussed at the October hearing, the developer, Henderson Creek LLC, has a Settlement and Release Agreement with the Habitat Trust for Wildlife and Spirit of the Sage Council (copy included as Attachment #3). This agreement specifies that Henderson Creek LLC will convey to the Wildlife Habitat Trust 86 acres for habitat conservation purposes along with the payment \$100,000 to compensate Spirit of the Sage for the cost of “administrative and conservation tasks incurred in relation to the conservation and dedication of the Habitat”.

However, the City’s adopted Mitigation Measure (BIO-1) for approval of this project states:

“Prior to recording of the first final map of the project, the property owner shall transfer to the County of San Bernardino Special Districts OS-1 **or other qualified conservation entity approved by the City**, in fee, a minimum of 54 acres of off-site

land for permanent open space and habitat preservation; along with funding in an amount to be mutually agreed upon by the property owner and the conservation entity, to provide for long-term maintenance of said land. The preferred location of the off-site land is in the environment surrounding the North Etiwanda Preserve in the City Sphere of Influence, other properties may be considered based on the review of appropriate Biological habitat Assessments and concurrence of the City Planner.” *(Italics added by LAFCO staff)*

Approval by the City of Rancho Cucamonga of another conservation entity is required before compliance with this mitigation measure is satisfied. The City has indicated, by letter included as Attachment #2, that compliance with this condition is being worked out with the developer of the project. The letter notes that the City is in support of LAFCO 2964 moving forward in the annexation process at this time. On that basis, staff is recommending that the Commission take the actions to approve the proposal as outlined under the recommendation section of this report, which mirror the recommendations included in the Original Staff Report provided as Attachment #4.

KRM/

Attachments:

- 1 – Location and Vicinity Maps
- 2 -- Letter from City of Rancho Cucamonga
- 3 -- Settlement Agreement and Release Agreement between Henderson Creek Properties LLC and Spirit of the Sage Council, et al.
- 4 -- Original Staff Report Dated October 12, 2004 (without attachments)
- 5 -- Response from Tom Dodson, Tom Dodson and Associates, with Statement of Overriding Considerations and Related Environmental Information
- 6 -- Draft Resolution No. 2849